

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

VICTOR MEDINA,	:	
	:	Civil Action No. 09-6347 (JBS)
Plaintiff,	:	
	:	
v.	:	<b>ORDER</b>
	:	
OFFICER MICHAEL TURNER,	;	
et al.,	:	
	:	
Defendants.	:	

This matter is before the Court upon the submission of Plaintiff's Complaint [1] and Application for leave to proceed in forma pauperis.

IT APPEARING THAT:

1. Plaintiff has submitted a form Application for leave to proceed in forma pauperis which is out of date, in that it states that the filing fee is \$150 and that, if Plaintiff is granted leave to proceed in forma pauperis, assessments may be withdrawn from Plaintiff's prison account until the \$150 filing fee is paid.

2. To the contrary, the filing fee for a civil action is \$350. If Plaintiff is granted leave to proceed in forma pauperis in this action, the Court may enter an Order assessing the \$350 filing fee and directing that assessments be withdrawn from Plaintiff's prison account until the \$350 filing fee is paid.

See 28 U.S.C. § 1915.

3. Plaintiff may not have known when he submitted his complaint that he must pay the \$350 filing fee, and that even if the full filing fee, or any part of it, has been paid, the Court must dismiss the case if it finds that the action: (1) is frivolous or malicious; (2) fails to state a claim upon which relief may be granted; or (3) seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e) (2) (B). If the Court dismisses the case for any of these reasons, § 1915 does not suspend installment payments of the filing fee or permit the prisoner to get back the filing fee, or any part of it, that has already been paid.

4. This Court expresses no opinion, at this time, as to whether this action is subject to dismissal pursuant to 28 U.S.C. § 1915(e) (2) (B) or otherwise.

IT IS, therefore, on this 23rd day of December, 2009; ORDERED that if Plaintiff does not wish to proceed with this action, with a \$350 filing fee, he must indicate his intent to withdraw the Complaint by filing with the Court, within 30 days following entry of this Order, a letter stating his intent to withdraw the Complaint; and it is further

ORDERED that failure to so file such a letter of withdrawal may result, if Plaintiff is granted leave to proceed in forma pauperis, in an Order assessing the full \$350 filing fee, to be

paid by monthly withdrawals from Plaintiff's institutional account, pursuant to 28 U.S.C. § 1915, regardless of the outcome of the litigation; and it is further

ORDERED that the Clerk of the Court shall send this Order to Plaintiff by regular U.S. mail.

**s/ Jerome B. Simandle**

Jerome B. Simandle  
United States District Judge